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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,125	07/08/2003	Axel Grandt	JM-040	2218
7590 Nicola A. Pisano, Esq. Suite 200 11988 El Camino Real San Diego, CA 92130		01/08/2007	EXAMINER PELLEGRINO, BRIAN E	
			ART UNIT	PAPER NUMBER
			3738	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/616,125	GRANDT, AXEL	
	Examiner	Art Unit	
	Brian E Pellegrino	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10 October 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-23 is/are pending in the application.

4a) Of the above claim(s) 3,4,9,10,13,14,19 and 20 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,2,5-8,11,12,15-18 and 21-23 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,2,5,6,15-17,21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. (6071305). Brown et al. show (Fig. 17) a stent **111** having a plurality of hollow core sections **114** extending from one end to the other helically and containing a therapeutic agent **123** in a polymer. Brown discloses that bioabsorbable polymers (col. 8, lines 62-65, col. 9, line 1, col. 10, lines 19-21) are used as means for controlling release into the lumen of the patient. It can also be seen there is a multiplicity of pores **108** disposed circumferentially about the exterior surface of the stent and are in fluid communication with the core sections as seen that they intersect. Brown discloses forming the tubular stent with a plurality of core sections and then filling with a therapeutic agent, col. 5, lines 45-51, col. 12, lines 36-45. Brown also discloses the stent can be made of a shape memory material, col. 5, lines 40-44. Figs. 1,2 illustrate the stent can assume a coiled shape. Brown additionally discloses the stent device is to be implanted in a vessel, col. 7, lines 25-28.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7,8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. '305 in view of Harry (2002/0038146). Brown is explained supra. Brown does disclose the pores can be any type of opening or shape, col. 6, lines 15-18. However, Brown fails to disclose the pores vary in size or shape with respect to one another. Harry teaches (Figs. 2,3) pores varying in size on the stent. Harry also teaches (Fig. 8) pores that vary in shape on the stent. It would have been obvious to one of ordinary skill in the art to vary the size or shape of the pores as taught by Harry with the stent of Brown to provide different amounts of therapeutic material released from the stent.

Claims 11,12,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. '305 in view of Johnson (5972027). Brown is explained supra. However, Brown fails to disclose a stent configuration formed of a plurality of rings affixed together. Johnson teaches (Fig. 2) a stent **20** having a plurality of rings **22** affixed together via connector **24**. It can also be seen the stent contains pores **26** on the stent for drugs. It would have been obvious to one of ordinary skill in the art to modify the stent design as taught by Johnson with the stent of Brown to provide more flexibility to use in tortuous vessels.

Response to Arguments

Applicant's arguments with respect to claims 1,15,23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E Pellegrino whose telephone number is 571-272-4756. The examiner can normally be reached on Monday-Thursday from 8:30am to 6pm. The examiner can also be reached on alternate Fridays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached at 571-272-4756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3738

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TC 3700, AU 3738

**BRIAN E. PELLEGRINO
PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read "Brian E. Pellegrino".